



U.S. Department
of Transportation

**Research and
Special Programs
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

DEC 15 2004

Mr. Harold Broeckel
Senior Packaging Engineer
Mallinckrodt Baker, Inc.
600 N Broad Street
Phillipsburg, NJ 08865

Ref. No.: 04-00 48

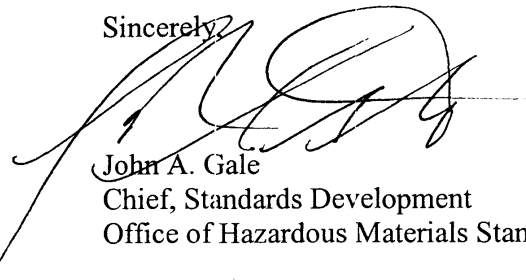
Dear Mr. Broeckel:

This is in response to your letter requesting clarification of the applicability of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) to the transportation of a hazardous material in a dual-marked package authorized under exemption. We apologize for the delay and hope it has not caused you any inconvenience. Specifically, you asked whether if it is permissible to use a package dual-marked (e.g. UN4G/X1.7/DOT-E8230) for a hazardous material not referenced in the exemption.

The answer is yes, provided that the packaging meets the requirements of the exemption and the UN packaging standard in all respects. The prohibited marking requirements in § 172.303 do not require the removal or obliteration of the exemption number from the packaging even when the packaging is not being used under the terms of the exemption. However, in order to minimize confusion or frustration of the shipment, you may wish to cover or obliterate the exemption number marking when the packaging is not being used under the terms of the exemption.

I hope this information is helpful. Please contact us if you require additional assistance.

Sincerely,



John A. Gale
Chief, Standards Development
Office of Hazardous Materials Standards



040048

178.3 (c)

Specialty Products

Mallinckrodt Baker

Webb
§178.3
Marking of Packagings
04-0048

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Date: 3/3/04

To: Edward T. Mazzullo, DHM-10
Director, Office of Hazardous Materials Standards
Office of Hazardous Materials Exemptions and Approvals
Research and Special Programs Administration
U.S. Department of Transportation
400 Seventh Street S.W.
Washington, DC 20590-0001
Attention: DHM-10

Dear Mr. Mazzullo:

I am writing to request a written interpretation regarding the application of 49CFR 178.3(c).

Mallinckrodt Baker employs a dual marked package (UN4G/X1.7 / DOT-E8230) which is being questioned for conformance within the regulations [178.3(c)] by a distributor of our products.

178.3(c) states: "Where a packaging conforms to more than one UN standard or DOT specification, the packaging may bear more than one marking, provided the packaging meets all the requirements of each standard or specification. Where more than one marking appears on a packaging, each marking must appear in its entirety".

Currently, Mallinckrodt Baker may utilize the package marking UN4G/X1.7 for a variety of permitted hazardous materials and may utilize the package marking DOT- E8230 for shipping Nitric Acid when in conformance with this exemption DOT- E8230 (attachment #1).

Specifically, the regulatory group of our distributor is challenging that Mallinckrodt Baker is not permitted to dual mark the package based on our distributors interpretation of 178.3 (c). Our distributors interpretation that using a package dual marked UN4G/X1.7 / DOT- E8230 for a hazardous material other than Nitric Acid, and in a combination packaging that is not referenced in the exemption would be in violation.

Mallinckrodt Baker placed a call to your information help line posing the same question. We were verbally advised by the information line to reference a similar question regarding bulk packaging posed by Franklin Environmental Services and responded to by RSPA favorably. Attached is a copy of this bulk packaging letter of clarification and associated request & bulk packaging exemption (attachment #2).

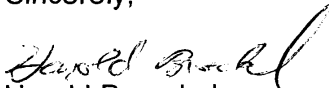
Your information line advised if a similar letter concerning non-bulk packaging was requested by Mallinckrodt Baker and crafted by RSPA the answer would be the same.

Mallinckrodt Baker advised our distributor concerning the above phone call; however they still insist/ require a formal response from RSPA concerning non-bulk packaging and dual marking.

As such Mallinckrodt Baker is requesting guidance and clarification for dual markings of packagings for non-bulk packaging as to whether a hazardous material is permitted to be packaged and shipped in a dual marked container where one of the markings is a DOT exemption marking that does not apply to the hazardous material being shipped.

We trust you will respond in a timely manner, thank you in advance.

Sincerely,


Harold Broeckel
Senior Packaging Engineer
Mallinckrodt Baker, Inc.
Phillispburg, NJ 08865